

AMENDED IN SENATE AUGUST 9, 2016

AMENDED IN SENATE JUNE 23, 2016

AMENDED IN SENATE JUNE 21, 2016

AMENDED IN ASSEMBLY MAY 27, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2358

**Introduced by Assembly Members ~~Bigelow and Wood~~ Gonzalez
and Waldron**

(Principal coauthors: Senators Galgiani, Hall, and Stone)

February 18, 2016

An act to ~~amend Section 14838.5 of the Government Code, relating to public contracts;~~ *add Section 12012.74 to the Government Code, relating to tribal gaming, and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

AB 2358, as amended, ~~Bigelow Gonzalez. Public contracts: small business contracts.~~ *Tribal gaming: compact ratification.*

Existing federal law, the Indian Gaming Regulatory Act of 1988, provides for the negotiation and execution of tribal-state gaming compacts for the purpose of authorizing certain types of gaming on Indian lands within a state. The California Constitution authorizes the Governor to negotiate and conclude compacts, subject to ratification by the Legislature. Existing law expressly ratifies a number of tribal-state gaming compacts, and amendments to tribal-state gaming compacts, between the State of California and specified Indian tribes.

The California Environmental Quality Act (CEQA) requires a lead agency to prepare, or cause to be prepared, and certify the completion of, an environmental impact report on a project, as defined, that it proposes to carry out or approve that may have a significant effect on the environment, as defined, or to adopt a negative declaration if it finds that the project will not have that effect.

This bill would ratify the tribal-state gaming compact entered into between the State of California and the Pechanga Band of Luiseño Mission Indians, executed on August 4, 2016. The bill would provide that, in deference to tribal sovereignty, certain actions are not projects for the purposes of CEQA.

This bill would declare that it is to take effect immediately as an urgency statute.

~~The Small Business Procurement and Contract Act permits a state agency to award a contract for goods, services, or information technology with an estimated value of between \$5,000 and \$250,000 to a certified small business, including a microbusiness, or to a disabled veteran business enterprise, without complying with specified competitive bidding requirements.~~

~~This bill would increase the upper limit of the value of those contracts from \$250,000 to \$300,000.~~

Vote: ~~majority~~^{2/3}. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 12012.74 is added to the Government
- 2 Code, to read:
- 3 12012.74. (a) The tribal-state gaming compact entered into
- 4 in accordance with the federal Indian Gaming Regulatory Act of
- 5 1988 (18 U.S.C. Secs. 1166 to 1168, inclusive, and 25 U.S.C. Sec.
- 6 2701 et seq.) between the State of California and the Pechanga
- 7 Band of Luiseño Mission Indians, executed on August 4, 2016, is
- 8 hereby ratified.
- 9 (b) (1) In deference to tribal sovereignty, none of the following
- 10 shall be deemed a project for purposes of the California
- 11 Environmental Quality Act (Division 13 (commencing with Section
- 12 21000) of the Public Resources Code):
- 13 (A) The execution of an amendment to the tribal-state gaming
- 14 compact ratified by this section.

1 (B) *The execution of the tribal-state gaming compact ratified*
2 *by this section.*

3 (C) *The execution of an intergovernmental agreement between*
4 *a tribe and a county or city government negotiated pursuant to*
5 *the express authority of, or as expressly referenced in, the*
6 *tribal-state gaming compact ratified by this section.*

7 (D) *The execution of an intergovernmental agreement between*
8 *a tribe and the Department of Transportation negotiated pursuant*
9 *to the express authority of, or as expressly referenced in, the*
10 *tribal-state gaming compact ratified by this section.*

11 (E) *The on-reservation impacts of compliance with the terms*
12 *of the tribal-state gaming compact ratified by this section.*

13 (F) *The sale of compact assets, as defined in subdivision (a) of*
14 *Section 63048.6, or the creation of the special purpose trust*
15 *established pursuant to Section 63048.65.*

16 (G) *The operation of an off-track satellite wagering facility*
17 *pursuant to the Off-Track Satellite Wagering Facilities Compact*
18 *ratified by this section.*

19 (2) *Except as expressly provided herein, this subdivision does*
20 *not exempt a city, county, or city and county, or the Department*
21 *of Transportation, from the requirements of the California*
22 *Environmental Quality Act.*

23 SEC. 2. *This act is an urgency statute necessary for the*
24 *immediate preservation of the public peace, health, or safety within*
25 *the meaning of Article IV of the Constitution and shall go into*
26 *immediate effect. The facts constituting the necessity are:*

27 *In order to enhance the economic development, stability, and*
28 *self-sufficiency of the Pechanga Band of Luiseño Mission Indians*
29 *and to protect the interests of the tribe and its members, the*
30 *surrounding community, and the California public at the earliest*
31 *possible time, it is necessary that this act take effect immediately.*

32 SECTION 1. ~~Section 14838.5 of the Government Code is~~
33 ~~amended to read:~~

34 ~~14838.5. (a) Notwithstanding the advertising, bidding, and~~
35 ~~protest provisions of Chapter 6 (commencing with Section 14825)~~
36 ~~of this part and Chapter 2 (commencing with Section 10290) and~~
37 ~~Chapter 3 (commencing with Section 12100) of Part 2 of Division~~
38 ~~2 of the Public Contract Code, a state agency may award a contract~~
39 ~~for the acquisition of goods, services, or information technology~~
40 ~~that has an estimated value of greater than five thousand dollars~~

1 (~~\$5,000~~), but less than three hundred thousand dollars (~~\$300,000~~);
2 to a certified small business, including a microbusiness, or to a
3 disabled veteran business enterprise, as long as the agency obtains
4 price quotations from two or more certified small businesses;
5 including microbusinesses, or from two or more disabled veterans
6 business enterprises.

7 (b) ~~In carrying out subdivision (a), a state agency shall consider~~
8 ~~a responsive offer timely received from a responsible certified~~
9 ~~small business, including a microbusiness, or from a disabled~~
10 ~~veteran business enterprise.~~

11 (c) ~~If the estimated cost to the state is less than five thousand~~
12 ~~dollars (\$5,000) for the acquisition of goods, services, or~~
13 ~~information technology, or a greater amount as administratively~~
14 ~~established by the director, a state agency shall obtain at least two~~
15 ~~price quotations from responsible suppliers whenever there is~~
16 ~~reason to believe a response from a single source is not a fair and~~
17 ~~reasonable price.~~